**DE 00-039**

**NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.**

**Request for Approval of Transition and Default Service Contract**

**Order Approving Settlement Stipulation**

**O R D E R N O. 23,449**

**May 1, 2000**

**APPEARANCES:** Dean, Rice & Kane, P.A. by Mark W. Dean, Esq. for the New Hampshire Electric Cooperative, Inc.; James T. Rodier, Esq. for Freedom Partners, LLC, AGF Direct Gas Sales & Servicing, Inc. d/b/a AGF Direct Energy, New Hampshire Consumers' Utility Cooperative and James T. Rodier, LLC; New Hampshire Legal Assistance by Alan Linder, Esq. for L. Thomas Russell; Wynn E. Arnold, Esq., Senior Assistant Attorney General, for the Governor's Office of Energy and Community Services; Michael W. Holmes, Esq., Consumer Advocate, on behalf of residential ratepayers; and Donald M. Kreis, Esq. for the Staff of the New Hampshire Public Utilities Commission.

## I. PROCEDURAL HISTORY

On February 25, 2000, the New Hampshire Electric Cooperative (NHEC) formally requested that the New Hampshire Public Utilities Commission (Commission) open a docket to consider NHEC's arrangements for acquiring wholesale Transition and Default Service for the one-year period commencing on June 1, 2000. The NHEC issued a request for proposals (RFP) on March 1, 2000, seeking bids for wholesale provision of Transition and Default Service for the period. The RFP sought bids for Transition Service pricing both with and without an 8 mil per kWh "retail adder." It also permitted potential suppliers to bid on both an all-requirements option and prescheduled "strips" of on-peak and all-hours energy together with specific amounts of Installed Capacity (ICAP).

The Commission conducted a prehearing conference on March 23, 2000, granting petitions to intervene from the Governor's Office of Energy and Community Services (GOECS); Concord Electric Company and Exeter & Hampton Electric Company; NHEC retail customer and member L. Thomas Russell; Freedom Partners, LLC; AGF Direct Gas Sales & Servicing, Inc. d/b/a AGF Direct Energy (AGF); New Hampshire Consumers' Utility Cooperative, Inc. (NHCUC); and James T. Rodier, LLC (Rodier). The Office of Consumer Advocate (OCA) entered an appearance on behalf of residential ratepayers.

Discovery, and the submission of pre-filed testimony, ensued pursuant to the procedural schedule agreed to by the parties and Staff at the prehearing conference. On April 14, 2000, Staff filed with the Commission a Settlement Stipulation entered into by all parties and Staff. The Commission conducted a hearing on April 19, 2000 at which two NHEC witnesses, Mr. Stephen Kaminski and Ms. Heather Saladino, testified in support of the Settlement Stipulation. In addition, the prefiled testimony submitted by all parties and

Staff was received into evidence.

## II. SETTLEMENT STIPULATION

The Settlement Stipulation entered into by the Parties and Staff calls for approval of NHEC's proposed framework for acquiring Transition and Default Service from June 1, 2000 to May 31, 2001. NHEC proposes to price both its retail Transition and Default Service at a flat annualized rate, calculated to recover NHEC's wholesale costs plus incremental administrative and consulting costs. Because negotiations with potential suppliers are still under way, both NHEC's filing and the Settlement Stipulation use a "placeholder" figure of $0.050 per kWh. Although this is substantially higher than NHEC's Transition Service rate for the first five months of $0.04162 per kWH, overall NHEC foresees a rate increase of only 3.1 percent for its member-customers because of offsetting decreases in stranded cost and other charges.[1]

NHEC's Request for Proposals, issued to potential Transition and Default Service providers, sought bids under

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[1] According to Ms. Saladino's prefiled testimony, NHEC proposes to reduce its Stranded Cost Charge from $0.02987 to $0.02545 because its 2000 stranded costs are nearly $1 million less than the $16.94 million previously forecast. She also noted a small decrease in Regional Access Charges compared to previous forecasts.

several pricing options. However, NHEC has indicated that based on its review of the bids received it intends to procure the service by purchasing baseload and on-peak energy strips with associated ICAP, making up any net deficiency in the ISO-New England spot market for wholesale electricity.[2] NHEC further indicated that it does not plan to supplement its Transition and Default service rates with a "retail adder" as a means of stimulating the development of retail competition.

As part of the Settlement Stipulation, NHEC has agreed to waive its tariff providing for a monthly fee of $0.60 for billing services provided to competitive suppliers. This waiver is limited to the first 5,000 customers served by any single competitive suppliers, and a total of 10,000 customers in the aggregate. The Settlement Stipulation expressly provides that the waiver terminates on May 31, 2001 or at the point NHEC has incurred $72,000 in incremental costs associated with the billing services, whichever occurs first.

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[2] A baseload energy strip is a specified quantity of energy to be delivered in every hour of a given month. An on-peak energy strip is a specified quantity of energy to be delivered in every on-peak hour of the month. ICAP is one of the six NEPOOL market products; it represents generating capacity. NHEC made clear at the hearing that it plans to acquire the four remaining NEPOOL market products that would be associated with Transition and Default Service through purchases on the spot market.

NHEC further agreed to file its proposal relating to the structure, terms and pricing of its Transition and Default Service for the period after May 31, 2001 at least 30 days prior to issuing any RFP intended to procure the necessary wholesale power. NHEC agreed to file periodic reports with the Commission to allow for tracking and evaluating the development of retail competition in its service territory. The schedule and contents of such reports are not specified, but NHEC agreed to work with the Commission Staff in consultation with interested parties in resolving these details. The Settlement Stipulation provides for NHEC to resume collection of the Franchise Tax and discontinue the collection of the Energy Consumption Tax until the Commission has certified to the Department of Revenue Administration that it has implemented a statewide restructuring plan. Finally, NHEC agreed to work with wholesale suppliers in an effort to obtain sufficient information from the suppliers to permit NHEC to comply with any environmental disclosure rules the Commission may adopt.

Additionally, in its initial filing, NHEC noted that it has had discussions with GOECS relative to providing member-customers with a "green" Transition Service option. According to NHEC, such a possibility has the potential for providing member-customers with additional Transition Service options without necessarily imposing cost burdens on member-customers who do not select such an option. NHEC represented that it has not sought such an option here because of time and technical constraints, but that a "green" Transition Service option is not precluded by its present proposal and NHEC remains willing to explore such a possibility with GOECS and other interested parties.

## III. COMMISSION ANALYSIS

We conclude that the Settlement Stipulation is in the public interest and we will approve it.

The Restructuring Act requires the Commission to balance a number of competing principles. *See* RSA 374-F:3. As we recently noted in our decision on the proposed restructuring Settlement Agreement involving Public Service Company of New Hampshire, imposing a retail adder on Transition Service Customers "would run contrary to the near term rate relief principle [RSA 374-F:3, XI] and would be an artificial and unnecessary means of trying to encourage the development of the [retail electricity] market." *PSNH Proposed Restructuring Settlement*, Order No. 23,443 (April 19, 2000) at 211. Thus, we approve the proposal of NHEC to forego a retail adder as a means to spur competition. With respect to waiver of competitive suppliers' fees, the modest and time-limited program at issue here, involving the provisions of free billing services on a trial basis, is sufficiently limited in scope so as to have no palpable effect on near-term rate relief even though the costs are borne by NHEC's member-customers. Having been negotiated with the suppliers, this trial may be of some assistance in facilitating the introduction of competition in the NHEC service area. Also, as NHEC has acknowledged, its plan for non-seasonally differentiated Transition and Default pricing may perhaps be the most effective inducement to entry into its territory by competitive suppliers, which may be able to provide attractive prices during the non-summer months. It will be valuable to monitor the extent and effect of any such arbitrage of seasonal power cost differences.

We note the concern expressed in Staff's pre-filed testimony that, by opting for something other than all-requirements service in order to provide energy to its Transition and Default load, NHEC is exposing its member-customers to supply-side risk and arguably taking a step backward toward the concept of a vertically integrated utility. Like Staff, we agree that the current volatility in the wholesale power market justifies NHEC's approach on a temporary basis, but we expect that as the wholesale market matures it will be appropriate for NHEC to again opt for requirements contracts in order to serve its Transition and Default load. We note NHEC's testimony that it estimates a need to purchase less than 5 percent of its energy needs on the spot market during the coming year, thus minimizing the risk to NHEC's member-customers.

Finally, we are aware that ISO-New England is likely to eliminate the ICAP spot market in the near future. Under NHEC's proposal, NHEC's member-customers using Transition or Default Service would benefit from this reform because NHEC has represented that it will require its wholesale suppliers to eliminate the ICAP portion of their charges should this product be eliminated.

Finally, we commend NHEC for its willingness to work with Staff and other parties on issues such as "green" Transition Service, environmental disclosures and a more timely filing of its future plans for acquiring energy supply. We will hold NHEC to the commitments it has made in these regards.

Accordingly, we approve the Settlement Stipulation as presented at hearing and authorize NHEC to charge and collect from its member-customers the revenues required to pay all costs and charges associated with the power supply agreement or agreements into which it may enter, consistent with the Settlement Stipulation, for the purpose of purchasing Transition and Default Service from June 1, 2000 through May 31, 2001. Subject to the filing of revised Tariff pages reflecting the actual wholesale power costs resulting from the RFP process, NHEC's proposed rate changes are approved. Approval of the Settlement Stipulation does not imply Commission approval of, acceptance of, agreement with, or consent to any concept, theory, principle or methodology underlying or supposed to underlie any matters at issue in this proceeding.

**Based upon the foregoing, it is hereby**

**ORDERED,** that the Settlement Stipulation entered into by the Parties and Staff is hereby approved; and it is

**FURTHER ORDERED,** that NHEC shall, upon entering into any contract for the purchase of wholesale Transition and Default Service for the period at issue in this docket, shall promptly file a copy of such executed contract or contracts with the Commission; and it is

**FURTHER ORDERED,** that within five days of completing the necessary arrangements for acquiring the wholesale energy necessary for providing Transition and Default Service during the period at issue in this docket, NHEC shall file appropriately revised tariff pages consistent with the decision herein.

By order of the Public Utilities Commission of New Hampshire this first day of May, 2000.

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| Douglas L. Patch<br>Chairman | Susan S. Geiger<br>Commissioner | Nancy Brockway<br>Commissioner |

Attested by:

Thomas B. Getz
Executive Director and Secretary